

REMARKS

The remainder of this amendment is set forth under appropriate subheadings for the convenience of the Examiner.

Claim Amendments

Claim 1 has been amended in accordance with statements made in the Interview Summary mailed from the United States Patent and Trademark Office on November 1, 2007 and referenced in the Office Action Made Final issued May 28, 2008. As amended, independent Claim 1 specifies that the claimed variable-impedance active ankle foot orthosis comprises a device that modulates joint stiffness or damping of an ankle in an updating manner at least twice during each walking cycle for treating an ankle foot gait pathology. Independent Claims 12, 19, 25 and 31 also have been amended to specify modulation of joint stiffness or damping of the ankle joint at least twice during each walking cycle.

Support for the amendments to Claim 1 can be found throughout the specification and, in particular, for example, at page 15, lines 7-11 of the specification. Independent Claims 12, 19, 25 and 31 also have been amended to specify modulation of joint stiffness or damping of the ankle joint at least twice during each walking cycle.

No new matter has been added.

New Claims

New Claims 37-41 have been added. All of the new claims mirror independent Claims 1, 12, 19, 25 and 31 but for substitution of language requiring modulation at least twice during each walking cycle, with the limitation that modulation of joint impedance is adaptive in nature, whereby information from each gait cycle causes further modulations that vary joint impedance from one gait cycle to the next, as indicated in the telephone Interview Summary of November 1, 2007, in the last sentence of the third full paragraph of that summary, and referenced in the Office Action Made Final at paragraph 2, on page 2 of that Office Action.

Support for new Claims 37-41 can be found in the independent claims from which new Claims 37-41 are derived and in the specification at, for example, page 10, lines 19 through page

11, line 3, page 12, lines 16-19, page 14, lines 2-5 and page 15, lines 7-11. Additional support can be found throughout the specification. No new matter has been added.

Outstanding Rejections of Claims Under 35 U.S.C. §§ 102 and 103.

The Examiner reaffirmed previous rejections under 35 U.S.C. §§ 102 and 103 of previously presented claims.

Applicant's have amended the independent claims previously presented to comport with the limitations suggested in paragraph 3 of the Interview Summary "that the claims be amended to convey that the impedance is being modulated continuously or more than once in an updating manner during each swing phase and walk cycle to further distinguish from the Beard '296 reference," which "both the Applicant and the Examiner see as a substantive aspect of the novelty of the invention." As further indicated in the Interview Summary, amendment of the independent claims to convey that impedance is being modulated continuously or more than once in an updating manner also is not disclosed in the remaining references, Swain '757, Stein '332, Johnson '693 and Horst '882, either separately or in any combination. Therefore, Applicants believe that the independent claims, as amended, had all claims dependent from them, meet the requirements of 35 U.S.C. §§ 102 and 103. Applicants, therefore, respectfully request reconsideration and withdrawal of the outstanding rejections with regard to previously presented and amended Claims 1-36.

For the same reasons, Applicants believe that independent Claims 37-41, which reflect previously presented independent claims, with the additional limitation, also suggested by the Examiner that modulation of joint impedance is adaptive nature, whereby information from each gait cycle causes further modulations that vary joint impedance from one gait cycle to the next, as expressed in the last sentence of the third full paragraph of the Interview Summary and referenced by the Examiner in the Office Action, Made Final, dated May 28, 2008. Therefore, Applicants also respectfully request entry, consideration and allowance of new independent Claims 37-41.

CONCLUSION

The independent claims have been amended as suggested by the Examiner in the Interview Summary dated November 1, 2007. New Claims 37-41 also reflect suggestions made by the Examiner during that telephone interview. None of the references cited by the Examiner either separately or in combination disclose or render obvious either previously presented and amended Claims 1-36, or new Claims 37-41. Applicants, therefore, respectfully request reconsideration, or entry and consideration, as appropriate, and allowance of the claims as presented in this reply.

If the Examiner believes that a telephone conference would expedite prosecution of application case, the Examiner is invited to call the undersigned.

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8/26/08